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10/561,880

12/23/2005

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EXAMINER

WOOD, KIMBERLY T

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

06/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/561,880 | Applicant(s) QUIAMBAO JR, MAGIN LUIS | |
| | Examiner Kimberly T. Wood | Art Unit 3632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is an office action for serial number 10/561,880.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 10, 14, 15, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamblet 4,522,300. Hamblet discloses a tube/tubular means (8) made of plastic (column 4, line 12), a top binder/means (15), a bottom binder/means (15), a support member/means for supporting (11d), a securing member/means for adjustably securing being a thumb screw (see column 5, lines 20ff), a means for preventing slipping (9 and 9a). Hamblet inherently discloses the method for detachably securing an umbrella shaft to a support shaft comprising the steps of aligning an umbrella mount with a support shaft, detachably binding said umbrella shaft into said tope end of the tube, adjusting said securing member.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamblet 4,522,300 in view of Moskowitz et al. (Moskowitz) 2001/0035202A1. Hamblet discloses all of the limitations of the claimed invention except for the hook and loop fastener for top and bottom strap. Moskowitz teaches that it is known to have the hook and loop fastener for top and bottom strap (figure 2B, element 102 and 104). It would have been obvious to have modified Hamblet to have hook and loop fasteners instead of buckles since Hamblet shows that hook/loop fasteners and buckle are an equivalent structures known in the art. Therefore, because these two attachment means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to use the hook and loop fasteners of Hamblet instead of the buckles.

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Claims 7, 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamblet 4,522,300 in view of Daigle 5,803,519. Hamblet disclose all of the limitations of the claimed invention except for the means for preventing slippage being selected from the group consisting of: one or more foam collars, one or more sponge collars, one or more rubber collars, a non-slip coating, a textured surface, and a sticky coating. Daigle teaches that it is known to have a plurality of foam collar (43). It would have been obvious to one having ordinary skill in the art to have modified Hamblet, in regards to claim 7, to have made the means for preventing slippage (9a of Hamblet) to be made of foam as an additional means of preventing the tube from slipping relative to the supporting member.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamblet 4,522,300 in view of Daigle 5,803,519. Hamblet disclose all of the limitations of the claimed invention except for the means for preventing slippage being positioned between said top binder and the tube and the bottom binder and said tube. Daigle teaches that it is known to have a plurality of foam collar (43). It would have been obvious to one having ordinary skill in the art to have modified Hamblet to have included additional collars between top binder and the tube and the bottom binder and said tube as taught by Daigle for the

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purpose of providing a better means of preventing the tube from slipping relative to the supporting member.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamblet 4,522,300. Hamblet discloses all of the limitations of the claimed invention except for the tube being a length of 12 to 13 inches, a inner diameter of about 1 inch. It would have been an obvious matter of design choice to have made the tube being a length of 12 to 13 inches, a inner diameter of about 1 inch, since such a modification would have involved a mere change in the shape and size of a component. A change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) and would not destroy the invention or cause any unexpected results.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamblet 4,522,300 in view of Bryan 5,762,308. Hamblet discloses all of the limitations of the claimed invention except for the support member being selected from the group consisting of: one or more protrusions in said cylindrical cavity of said tube, a cap, a roll pin, and a machine screw. Bryan discloses support member positioned within the cavity to obstruct a portion of the cavity near the bottom of the tube such as a cap (22). It would have been obvious to one having

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ordinary skill in the art to have modified Hamblet to have made the support member as a cap as taught by Bryan since Hamblet provides motivation for such a modification within column 5, lines 21ff, which states, "the lower end of the tube may be open or closed, depending upon whether the lower end member 12 of shaft 11 is to abut the bottom end of the tube" therefore a cap of Bryan would meet the limitations of a closed bottom as required by Hamblet to allow the supported object to "abut the bottom end of the tube".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly T. Wood/
Kimberly T. Wood
Primary Examiner
Art Unit 3632

June 22, 2008